HONOURABLE SRI G.S.SINGHVI

THE CHIEF JUSTICE

AND

HONOURABLE SRI JUSTICE

R.SUBHASH REDDY

-

WRIT APPEAL No.2490 OF 2005

Between:

Fathima Begum W/o Mohd. Shabuddin

Moghalpura, Hyderabad.

... Appellant

And

The Commissioner, Municipal Corporation

of Hyderabad, Tankbund Road, Hyderabad

and another.

… Respondents.

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::JUDGMENT::

Counsel for appellant : Sri M.V.Bharathi

Counsel for respondents : Sri Ganta Rama Rao.

20th December, 2005.

Per G.S.Singhvi, C.J.

Feeling dissatisfied with the partial relief granted by the learned Single Judge in Writ Petition No.25347 of 2005, the appellant has filed this appeal.

In the writ petition filed by her, the petitioner challenged notice dated 6-7-2005 issued by Assistant City Planner, Circle No.2, Municipal Corporation of Hyderabad (for short 'the

Corporation') seeking to utilise her property for widening the road. She averred that the authorities of the Corporation cannot utilise her land without acquiring the same in accordance with law. She further averred that the so-called widening of road was meant to benefit politically influential persons and that there was no justification to demolish her property which was far away from the road.

The learned Single Judge refused to nullify the notice dated 6.7.2005, but observed that the appellant's land can be acquired for any public purpose including widening of the road only after following the procedure contemplated under Section 146 or 147 of Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

Sri M.V.Bharathi, learned counsel for the appellant argued that in the garb of road widening programme, the respondents are trying to deprive the appellant of her right to carry on business in the shop and earn her livelihood. He submitted that the learned Single Judge committed serious error by not quashing notice dated 6.7.2005 despite the fact that the same was intended to benefit politically influential persons.

We have considered the submission of the learned counsel, but have not felt impressed. In our opinion, the writ petition as also the writ appeal, as constituted cannot be entertained because even though the writ petitioner-appellant has sought relief against the Corporation which is a creature of a statute, the same has not been impleaded as party respondent. Commissioner, Municipal Corporation of Hyderabad, and, Assistant City Planner, Circle-II, Municipal Corporation, who have been impleaded as parties to the writ petition are officers of the Corporation and not the Corporation itself and, in our considered view, without impleading the Corporation as party respondent, the appellant could not have persuaded the learned Single Judge to nullify the so-called action taken by the authorities concerned for acquisition of her property.

We are further of the view that the observation made by the learned Single Judge that the appellant's property can be acquired only after following the procedure prescribed under Section 146 or 147 of the Act amply safeguards her interests and there is no warrant for issuing any other direction by entertaining her imaginary apprehension that the authority concerned will deprive her of the property without following due process of law.

With the above observation the appeal is dismissed.

G.S.Singhvi, C.J.

20.12.2005.

R.Subhash Reddy, J.

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